

# House File 2138

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1 3 AN ACT  
1 4 RELATING TO PAYMENT OF LEGAL EXPENSES FOR INDIGENT PERSONS  
1 5 BY THE STATE PUBLIC DEFENDER.  
1 6  
1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
1 8  
1 9 Section 1. Section 13B.4, subsection 2, Code Supplement  
1 10 2003, is amended to read as follows:  
1 11 2. The state public defender shall file a notice with the  
1 12 clerk of the district court in each county served by a public  
1 13 defender ~~a designation of which local designating which public~~  
1 14 defender office shall receive notice of appointment of cases.  
1 15 The state public defender may also designate a nonprofit  
1 16 organization which contracts with the state public defender to  
1 17 provide legal services to eligible indigent persons. Except  
1 18 as otherwise provided, in each county in which the state  
1 19 public defender files ~~such a designation~~, the state public  
1 20 ~~defender or its defender's~~ designee shall be appointed by the  
1 21 court to represent all eligible indigents, in all of the cases  
1 22 and proceedings specified ~~under subsection 1 in the~~  
1 23 designation. The appointment shall not be made if the state  
1 24 public defender notifies the court that the ~~local~~ public  
1 25 defender designee will not provide legal representation in  
1 26 certain cases as identified in the designation by the state  
1 27 public defender.  
1 28 Sec. 2. Section 13B.4, subsection 3, Code Supplement 2003,  
1 29 is amended to read as follows:  
1 30 3. The state public defender may contract with persons  
1 31 admitted to practice law in this state and nonprofit  
1 32 organizations employing persons admitted to practice law in  
1 33 this state for the provision of legal services to indigent  
1 34 persons.  
1 35 Sec. 3. Section 13B.4, subsection 4, paragraph c,  
2 1 subparagraph (2), subparagraph subdivision (d), Code  
2 2 Supplement 2003, is amended to read as follows:  
2 3 (d) ~~If the appointment of the claimant was obtained~~  
2 4 ~~without complying appointed contrary to section 814.11, or the~~  
2 5 ~~claimant failed to comply with section 814.11, subsection 6,~~  
2 6 ~~or section 815.10, subsection 5.~~  
2 7 Sec. 4. Section 13B.9, subsection 4, Code Supplement 2003,  
2 8 is amended to read as follows:  
2 9 4. If a conflict of interest arises or if the local public  
2 10 defender is unable to handle a case because of a temporary  
2 11 overload of cases, the local public defender shall return the  
2 12 case to the court. If the case is returned and the state  
2 13 public defender has filed a successor designation, the court  
2 14 shall appoint the successor designee. If there is no  
2 15 successor designee on file, the court shall make the  
2 16 appointment pursuant to section 815.10. As used in this  
2 17 subsection, "successor designee" may include another local  
2 18 public defender office or a nonprofit organization that has a  
2 19 ~~contract with the office of the state public defender for the~~  
2 20 ~~provision of legal services to indigent persons contracted~~  
2 21 ~~with the state public defender under section 13B.4, subsection~~  
2 22 ~~3.~~  
2 23 Sec. 5. Section 815.10A, Code 2003, is amended to read as  
2 24 follows:  
2 25 815.10A CLAIMS FOR COMPENSATION.  
2 26 1. An attorney other than a public defender who has been  
2 27 appointed by the court under this chapter must apply submit a  
2 28 claim to the state public defender for compensation and  
2 29 reimbursement of expenses incurred in the representation of an  
2 30 indigent person.  
2 31 2. Claims for compensation and reimbursement submitted by  
2 32 an attorney appointed after June 30, 2004, are not considered  
2 33 timely unless the claim is submitted to the state public  
2 34 defender within forty-five days of the sentencing, acquittal,  
2 35 or dismissal of a criminal case or the final ruling or  
3 1 dismissal of any other type of case.  
3 2 ~~2- 3.~~ An attorney shall obtain court approval prior to  
3 3 exceeding the fee limitations established by the state public  
3 4 defender pursuant to section 13B.4. An attorney may exceed  
3 5 the fee limitations, if good cause for exceeding the fee

3 6 limitations is shown. An attorney may obtain court approval  
3 7 after exceeding the fee limitations, if good cause excusing  
3 8 the attorney's failure to seek approval prior to exceeding the  
3 9 fee limitations is shown. However, failure to file an  
3 10 application to exceed a fee limitation prior to exceeding the  
3 11 fee limitation does not constitute good cause. The order  
3 12 approving an application to exceed the fee limitations shall  
3 13 be effective from the date of filing the application unless  
3 14 the court order provides an alternative effective date.  
3 15 ~~Failure to timely file an application to exceed a fee~~  
3 16 ~~limitation after exceeding the fees shall not constitute good~~  
3 17 ~~cause.~~ The application and the court order approving the  
3 18 application to exceed fee limitations and any other order  
3 19 affecting the amount of compensation or reimbursement shall be  
3 20 submitted with any claim for compensation.  
3 21 ~~3- 4.~~ If the information is not submitted as required  
3 22 under this section and under the rules of the state public  
3 23 defender, the claim for compensation may be denied until the  
3 24 information is provided. Upon submitting receipt of the  
3 25 required information, the state public defender may approve  
3 26 reasonable and necessary compensation, as provided for in the  
3 27 administrative rules and the law.  
3 28 Sec. 6. Section 815.11, Code Supplement 2003, is amended  
3 29 to read as follows:  
3 30 815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.  
3 31 Costs incurred under chapter 229A, 665, or 822, or section  
3 32 232.141, subsection 3, paragraph "c", or section 598.23A,  
3 33 814.9, 814.10, 814.11, 815.4, 815.7, 815.10, or 908.11 on  
3 34 behalf of an indigent shall be paid from funds appropriated by  
3 35 the general assembly to the office of the state public  
4 1 defender in the department of inspections and appeals for  
4 2 those purposes. Costs incurred representing an indigent  
4 3 defendant in a contempt action, or representing an indigent  
4 4 juvenile in a juvenile court proceeding under chapter 600, are  
4 5 also payable from these funds. However, costs incurred in any  
4 6 administrative proceeding or in any other proceeding under  
4 7 chapter 598, 600, 600A, 633, or 915 or other provisions of the  
4 8 Code or administrative rules are not payable from these funds.

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4 12 \_\_\_\_\_  
4 13 CHRISTOPHER C. RANTS  
4 14 Speaker of the House

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4 16 \_\_\_\_\_  
4 17 JEFFREY M. LAMBERTI  
4 18 President of the Senate

4 19  
4 20 I hereby certify that this bill originated in the House and  
4 21 is known as House File 2138, Eightieth General Assembly.

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4 25 \_\_\_\_\_  
4 26 MARGARET THOMSON  
4 27 Chief Clerk of the House

4 28 Approved \_\_\_\_\_, 2004

4 29  
4 30 \_\_\_\_\_  
4 31 THOMAS J. VILSACK  
4 32 Governor